

Message Text

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PAGE 01 EC BRU 00415 151840Z

53

ACTION EB-07

INFO OCT-01 EUR-12 ISO-00 AGR-05 CEA-01 CIAE-00 COME-00

DODE-00 FRB-03 H-02 INR-07 INT-05 L-03 LAB-04 NSAE-00

NSC-05 PA-01 AID-05 CIEP-01 SS-15 STR-04 TAR-01

TRSE-00 USIA-06 PRS-01 SP-02 FEAE-00 OMB-01 XMB-02

IO-11 /105 W

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P R 151729Z JAN 76

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TO SECSTATE WASHDC PRIORITY 300

INFO ALL EC CAPITALS 1537

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E.O. 11652: N/A

TAGS: ETRD, EEC, IT

SUBJECT: COUNTERVAILING DUTY INVESTIGATIONS: FLOAT GLASS

REF: (A) ROME 0604, (B) STATE 0005, (C) JOHNSTON/ALBRECHT TELECON
1/08/76

1. BEGIN SUMMARY: WE ARE INCLUDING THE TEXT OF A NOTE WHICH THE EC COMMISSION HAS TRANSMITTED TO ITS REPRESENTATIVE IN WASHINGTON FOR DELIVERY TO THE STATE DEPARTMENT ON THE DECISION ON ITALIAN FLOAT GLASS. AFTER LEARNING THAT SUCH A NOTE WAS IN PREPARATION WE REITERATED TO THE COMMISSION AND TO MEMBER STATE DELEGATIONS THE ARGUMENTS IN REFTEL B. END SUMMARY.

2. UPON LEARNING THAT THERE WAS A PLAN IN THE COMMISSION TO SEND A NOTE

TO THE UNITED STATES ON THE ITALIAN FLOAT GLASS COUNTERVAILING DUTY DECISION AND THAT THE MATTER WOULD BE CONSIDERED IN A 113 COMMITTEE MEETING, ON JANUARY 8, WE GOT IN TOUCH WITH FIELDING, EC COMMISSION DIRECTOR FOR NORTH AMERICA AND WITH OFFICIALS IN THE BRITISH AND GERM
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PAGE 02 EC BRU 00415 151840Z

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PERM REP DELEGATIONS. WE REITERATED TO THEM THE POINTS MADE IN PARAGRAPH 4, REFTEL B, THAT THE UNITED STATES HAD MADE A MAXIMUM EFFORT, WITHOUT SUCCESS, TO OBTAIN INFORMATION ON THE ITALIAN SUBSIDIES. WE NOTED THAT THE RECEIPT OF ADEQUATE INFORMATION HAD RESULTED IN FAVORABLE DECISIONS ON ALL OTHER ASPECTS OF THE CASE. WE WERE STILL WILLING TO CONSIDER INFORMATION FROM THE ITALIAN GOVERNMENT AND THE ITALIAN FIRMS. WE SAID THAT A NOTE ON THIS SUBJECT, WITHOUT ACKNOWLEDGING THE DECISIONS ON GLASS IMPORTS FROM THE OTHER MEMBER STATES, COULD CONSTITUTE AN UN-PRODUCTIVE SORT OF RESPONSE TO WHAT HAD BEEN OVERALL FAVORABLE DECISIONS BY THE TREASURY. THE AMBASSADOR ALSO DISCUSSED THE MATTER WITH COMMISSION VICE PRESIDENT SOAMES.

3. AT THE ARTICLE 113 COMMITTEE MEETING ON JANUARY 9, SEVERAL MEMBER STATES, INCLUDING THE UK AND GERMANY, RECEIVED THEIR POSITION ON THE MATTER, BUT THE ITALIANS CONTINUED TO DEMAND THAT A NOTE SHOULD BE SENT. AFTER THE WEEKEND, THE OTHER MEMBER STATES WITHDREW THEIR RESERVATIONS, WITH THE BRITISH, HOWEVER, INSISTING THAT SOME RELATIVELY INSIGNIFICANT CHARGES BE MADE IN THE TEXT.

4. WE HAVE NOW RECEIVED A COPY OF THE TEXT OF THE NOTE. THE COMMISSION DOES NOT INTEND TO MAKE THE NOTE PUBLIC.

5. BELOW IS THE TEXT OF THE NOTE:

BEGIN TEXT:

THE DELEGATION OF THE COMMISSION OF THE EUROPEAN COMMUNITIES PRESENTS ITS COMPLIMENTS TO THE DEPARTMENT OF STATE AND HAS THE HONOR TO REFER TO THE FINAL DETERMINATION ANNOUNCED BY THE TREASURY DEPARTMENT ON 5 JANUARY 1976 WHEREBY A TEN PERCENT COUNTERVAILING DUTY IS TO BE IMPOSED ON IMPORTS OF FLOAT GLASS FROM ITALY INTO THE UNITED STATES.

THE DELEGATION IS INSTRUCTED TO CONVEY TO THE DEPARTMENT OF STATE THE COMMUNITY'S DISAPPOINTMENT WITH THIS DETERMINATION AND ITS CONCERN AT THE WIDER IMPLICATIONS WHICH THE DETERMINATION CARRIES.

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PAGE 03 EC BRU 00415 151840Z

THE COMMUNITY CONSIDERS THAT THE APPLICATION OF COUNTERVAILING DUTIES IN THIS CASE IS INCOMPATIBLE WITH A BASIC PRINCIPLE OF GATT ACCORDING TO WHICH MATERIAL INJURY TO A DOMESTIC INDUSTRY, OR THE THREAT THEREOF, MUST BE DEMONSTRATED. IT IS EVIDENT IN THE FLOAT GLASS COMPLAINT AGAINST ITALY, WHICH INVOLVED EXPORTS OF A MERE 971 TONS IN 1974, THAT THE POTENTIAL INJURY TO US INDUSTRY IS MINIMAL.

FURTHERMORE, THE COMMUNITY CANNOT ACCEPT THE PRINCIPLE OF COUNTERVAILING ACTION AGAINST AIDS WHICH BY DEFINITION ARE DESIGNED TO OFFSET REGIONAL DISADVANTAGES IN AREAS LIKE THE MEZZOGIORNO, AD NOT TO PROMOTE EXPORTS. IN THIS REGARD, THE DELEGATION REMINDS THE DEPARTMENT OF STATE THAT AIDS WHICH WOULD OVER-COMPENSATE REGIONAL DISADVANTAGES ARE INADMISSIBLE UNDER THE EEC TREATY; AND THAT AN EFFECTIVE ENFORCEMENT POLICY EXISTS TO PREVENT SUCH DISTORTION OF COMPETITION.

THE COMMISSION HAD NOTED WITH SURPRISE EXPLANATIONS OFFERED BY THE US ADMINISTRATION THAT THE TREASURY HAD TO BASE ITS DECISION ON DATA SUPPLIED BY THE COMPLAINANTS SINCE IT COULD NOT GET ADDITIONAL AUTHENTIC INFORMATION. THE DELEGATION IS INSTRUCTED TO REMIND THE STATE DEPARTMENT THAT IN RESPONSE TO THE TREASURY'S REQUEST THE ITALIAN GOVERNMENT HAS PROVIDED VARIOUS MEMORANDA ON THE APPLICATION OF REGIONAL AIDS IN ITALY. SINCE THE REGINAL AIDS IN QUESTION ARE ESTABLISHED BY THE PUBLIC AUTHORITIES, T FALLS TO THEM TO FURNISH THE NECESSARY EXPLANATIONS. IN THE COMMUNITY'S VIEW, IT IS NOT JUSTIFIABLE TO PENALIZE FIRMSIN THESE CIRCUMSTANCES FOR FAILURE TO REPLY.

THE COMMUNITY GHEREFORE URGES THE US GOVERNMENT TO RE-CONSIDER THE DETERMINATION ANNOUNCED ON 5 JANUARY AND TO AB-STAIN FROM COUNTERVAILING ACTION AGAINST THE IMPORTS CONCERNED.

THE DELEGATION OF THE COMMISSION OF THE EUROPEAN COMMUNITIES TAKES THE OPPORTUNITY TO RENEW TO THE DEPARTMENT OF STATE THE ASURANCE OF ITS HIGHEST CONSIDERATION.
END TEXT.
GREENWALD

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Margaret P. Grafeld
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